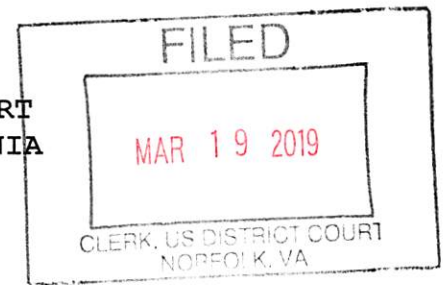


IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division



ALVIN BERNARD WHITTLE,

Petitioner,

v.

ACTION NO. 2:18-cv-32

HAROLD W. CLARKE, Director,
Virginia Department of Corrections,

Respondent.

FINAL ORDER

Before the Court is a petition for a writ of habeas corpus filed pursuant to 28 U.S.C. § 2254. ECF No. 1. Petitioner alleges violations of federal rights pertaining to his conviction in the Circuit Court of Mecklenburg County on November 30, 2012, for rape. The Petitioner was sentenced to thirteen years in prison.

The matter was referred for disposition to a United States Magistrate Judge pursuant to 28 U.S.C. §§ 636(b)(1)(B)-(C), Federal Rule of Civil Procedure 72(b), Local Civil Rule 72, and the April 2, 2002 Standing Order on Assignment of Certain Matters to United States Magistrate Judges. In a Report and Recommendation entered on February 1, 2019, the Magistrate Judge recommended the petition be denied and dismissed with prejudice. Petitioner was advised of his right to file written objections

to the Report and Recommendation. The Court has not received any objections from Petitioner and the time to do so has expired.

Having reviewed the record and having heard no objection, the Court agrees with the Report and Recommendation on the grounds stated by the Magistrate Judge and **ADOPTS** and **APPROVES** the Report and Recommendation, ECF No. 4, in its entirety as the Court's own opinion. Accordingly, the Petition is **DENIED** and **DISMISSED WITHOUT PREJUDICE**.


Finding that the procedural basis for dismissal of Petitioner's § 2254 petition is not debatable, and alternatively finding that Petitioner has not made a "substantial showing of the denial of a constitutional right," a certificate of appealability is DENIED. 28 U.S.C. § 2253(c); see Rules Gov. § 2254 Cases in U.S. Dist. Cts. 11(a); Miller-El v. Cockrell, 537 U.S. 322, 335-38 (2003); Slack v. McDaniel, 529 U.S. 473, 483-85 (2000).

Petitioner is ADVISED that because a certificate of appealability is denied by this Court, he may seek a certificate from the United States Court of Appeals for the Fourth Circuit. Fed. Rule App. Proc. 22(b); Rules Gov. § 2254 Cases in U.S. Dist. Cts. 11(a). If Petitioner intends to seek a certificate of appealability from the Fourth Circuit, he must do so within

thirty (30) days from the date of this Order. Petitioner may seek such a certificate by filing a written notice of appeal with the Clerk of the United States District Court, United States Courthouse, 600 Granby Street, Norfolk, Virginia 23510.

The Clerk is **DIRECTED** to forward a copy of this Order to the Petitioner.

It is so **ORDERED**.

/s/ 
Mark S. Davis
Chief Judge

Mark S. Davis
Chief United States District Judge

Norfolk, Virginia

Date: 